

Remarks

The forgoing amendment has been made after a careful review of the present application, the references of record, and the Office Action dated August 23, 2005. In the Office Action, the examiner has allowed claims 6 through 10, 12, 13, 14, and 16. Claims 1 through 5 and 15 are rejected under 35 USC 112 as being unclear for a number of reasons, and claim 1 was rejected under 35 USC 102(b) as being anticipated by either Koch or Basista. Claim 15 was rejected under 35 USC 103(a) as being unpatentable over either Koch or Basista in further view of Andersson.

In the forgoing amendment, the applicant has amended claim 1 to remove the ambiguities raised by the examiner under 35 USC 112. With the amendments to claim 1, it is believed that the objection under 35 USC 112 has been overcome.

The applicant hereby traverses the rejection of amended claim 1 as being anticipated by either Koch or Basista. As amended, claim 1 recites that a second length of gutter is longitudinal adjustable with respect to the first length of gutter such that an overall length of the gutter is determined without cutting one of the two lengths of gutter. The longitudinally adjustable nature of the lengths of gutter is described a length in the specification on page 3 lines 5 through 16 and on page 7 line 16 to page 8 line 7. The use of tabs to lock one length of gutter to another in a desired nested relationship is depicted in Fig. 3.

The Koch reference discloses a water drainage assembly consisting of a plurality of lengths assembled in end-to-end relationship with the ends of one nested into the ends of another. The parts are retained in end-to-end relationship by a cradle 6 having upwardly extending threaded studs 12 that extend through slots 13 in the ends of the lengths of gutter. The purpose of the slots is to accommodate expansion and contraction and simplify assembly, see column 2 lines 38 through 42 of Koch. Since Koch does not show a plurality of slots along both sides of the trough, the elements of Koch are not longitudinally adjustable as required by amended claim 1. Accordingly, amended claim 1 overcomes the rejection of Koch.

In similar fashion, the applicant traverses the rejection of amended claim 1 as being anticipated by Basista. The Basista reference discloses a gutter system having a plurality of lengths with an enlargement at one end of each of the lengths. The enlargement includes an enlarged inner and outer diameter such that the outer portions of the small end may be inserted into the inner portions of the enlarged end to allow a limited degree of nested relationship. The parts of Basista, however, allow only sufficient nesting to enable the parts to seal together end-to-end. To change the overall length of two portions of gutter assembled in end-to-end relationship, one of the lengths has to be cut, contrary to the requirements of claim 1. Accordingly, the applicant believes that claim 1 overcomes the Basista reference.

New claim 17 has also been added, which is dependent upon claim 1 and asserts that the length of gutter includes a plurality of spaced tabs that can be

folded over a portion of a second length of gutter to lock the lengths together at a desired length. This structure is also not shown in any of the references cited and therefore, it is believed to be allowable.

The Andersson reference is cited with respect to claim 15 as showing a rubber packing 8 which the examiner considers to be a sealant as recited in claim 15. The sealant of Andersson, however, is applied to a connecting unit that joins two lengths of gutter and is not applied to one end of a length of gutter that is nested into another as required by claim 1. Andersson does not overcome the shortcomings of either of the previous references cited with respect to claim 1 and therefore, the applicant believes that claim 15, which is dependent upon claim 1 is also allowable.

In view of the forgoing, the applicant believes that with the entry of the present amendment, all the claims will be in condition for allowance and favorable reconsideration and allowance is requested.

Respectfully submitted,



Robert L. Marsh
Reg. No. 25894
Attorney for the Applicant
630-681-7500
Fax: 630-681-3464

54 Danada Drive
P. O. Box 4468
Wheaton, Illinois 60189-4468

RLM:ksc